

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>v.</b>	)	<b>No. 3:05cr0086AS</b>
	)	
<b>MICHAEL J. McBRIDE, and</b>	)	
<b>ANTHONY R. SHEETS</b>	)	

***MEMORANDUM AND ORDER***

This court takes full judicial notice of the record in this case as well as the content of the presentations made in open court on August 18, 2005. According to the presentations made in that proceeding, each of these defendants have been in custody since on or about June 23, 2005, although the indictment was not filed until July 13, 2005. There was an earlier criminal complaint filed on that day. This court must be guided basically by 18 U.S.C. §3142. Specifically, this court must take note of 18 U.S.C. §3142(f)(1)(C). Certainly Title 21 U.S.C. §846 and Title 21 U.S.C. §841(a)(1) represent the kind of offenses that fall within the so-called rebuttable presumption.

Certainly this statute, as enacted by the Congress, was never intended to obviate the basic presumption of innocence and the basic burden of proving the charge by evidence beyond a reasonable doubt. This court also must and does take into consideration the intent of the Congress of the United States in enacting the aforesaid statutes, and this court well understands the society problems that inhere in those statutes.

This court must also consider the personal situation of each defendant in an individualized way. Lastly and certainly not the least of the considerations is the recommendation of an able and experienced probation officer, in this case, two able and experienced probation officers.

Anthony R. Sheets is totally without any prior record. He is 35 years old and may have some medical needs that are not being adequately addressed in his present custody in the St. Joseph County, Indiana Jail. He has a four-year college degree. It has been recommended by probation as follows:

In consideration of the defendant's risk of non-appearance and danger, it appears the defendant is a suitable candidate for release. Given his financial situation and past alcohol abuse, it is recommended he be released on the following conditions:

Release on 10,000 unsecured bond;

Report to U.S. Pretrial Services as required and follow all instructions;

Obtain and maintain employment;

Not to possess a firearm or dangerous weapon;

Refrain from any alcohol or drug use; and

Submit to random testing for substance of abuse at the direction and discretion of U.S. Pretrial Services.

Given all of the circumstances and the arguments that were advanced on behalf of Anthony R. Sheets at the aforesaid hearing, it is the determination of this court that it is necessary to

require him to post a \$20,000 secured bond, with a corporate security from the approved list of the Treasury Department of the United States with all of the conditions mentioned above.

Candidly, Michael James McBride presents additional and somewhat more concerns. It is true that he has no felony convictions, but has had a number of run-ins with authorities in regard to operating a motor vehicle. As indicated by the probation officer, this defendant does have a conviction of a crime of violence, even though the same is a misdemeanor. That is disturbing. There is also a history of substance abuse which is also disturbing. It is also disturbing that he was on probation while allegedly engaged in the conduct which is the subject of these charges. Given all that and notwithstanding the generous recommendation of the probation officer, it is the decision of this court that Michael James McBride be released only on a \$30,000 secured bond based on the condition recommended by probation. The surety must be on the approved list of the Treasury Department of the United States.

These two defendants are to be held in custody until the aforesaid bonds are filed respectively by each of them. **IT IS SO ORDERED.**

**DATED:** August 22, 2005

**S/ ALLEN SHARP**  
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**ALLEN SHARP, JUDGE**  
**UNITED STATES DISTRICT COURT**